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6
7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8
9 FOR THE COUNTY OF MARIN

10 CHURCH OF SCIENTOLOGY INTERNATIONAL,))
a California not-for-profit))
11 religious corporation,))
12 Plaintiff,))
13 vs.))
14 GERALD ARMSTRONG; MICHAEL WALTON;))
THE GERALD ARMSTRONG CORPORATION))
15 a California for-profit))
corporation; DOES 1 through 100,))
16 inclusive,))
17 Defendants.))
18

No. 157 680
~~NOTICE OF MOTION AND
MOTION FOR SUMMARY
JUDGMENT, OR, IN THE
ALTERNATIVE, FOR SUMMARY
ADJUDICATION OF ISSUES,
SEPARATE STATEMENTS IN
SUPPORT THEREOF; POINTS
AND AUTHORITIES IN SUPPORT
THEREOF; EVIDENCE IN
SUPPORT THEREOF; REQUEST
FOR JUDICIAL NOTICE~~
Date: September 9, 1994
Time: 9:00 a.m.
Dept: One
Trial Date: 9/29/94

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19 I. STATEMENT OF FACTS

20 A. Introduction

21 The lawsuit filed by CSI against defendant Gerald Armstrong
22 is part of a religious vendetta that CSI is misusing the judicial
23 system in order to assert its religious values over and in
24 derogation of the religious values of Armstrong. Although it has
25 cloaks its action in the secular lexicon of seeking to set aside
26 the conveyance of Armstrong's interest in real property to co-
27 defendant Michael Walton, upon examination of CSI's policies and
28 procedures the Court will conclude that CSI has entangled the

1 Court in litigation in a manner that violates the religious
2 liberty clauses of both the state and federal constitutions. It
3 does so by using litigation as a means to destroy Armstrong whom,
4 pursuant to its own ecclesiastical policies it has labelled as a
5 "suppressive person" and as a "squirrel" which requires that,
6 pursuant to its ecclesiastical mandate, certain actions must be
7 taken.

8 Furthermore, CSI's action is fatally flawed because, in order
9 to prove that Armstrong intended to defraud it when he made the
10 questioned transfers, the Court must pass on the truth and
11 validity of Armstrong's sincerely held religious belief that God
12 told him to give away his worldly possessions. Such determination
13 is constitutionally forbidden.

14 B. Allegations Of The Verified Complaint

15 In its verified complaint CSI alleges that Armstrong entered
16 a settlement contract in 1986 which contained certain
17 "confidentiality provisions" and "liquidated damages" provisions.
18 (Sep.Stmt. at ¶ 1) The complaint alleges that in February 1990
19 "Armstrong began to take a series of actions which directly
20 violated the provisions of the Agreement" and, in order to protect
21 himself against the liquidated damages provisions, without
22 consideration he fraudulently conveyed all of his real and
23 personal property to co-defendant Walton, The Gerald Armstrong
24 Corporation and Doe defendants. (Sep.Stmt. at ¶ 2)

25 The first cause of action contends that Armstrong was an
26 owner of real property situated at 707 Fawn Drive, San Anselmo and
27 that on August 24, 1990 Armstrong's transfer of the property was
28 made with the actual intent to hinder, delay or defraud its

1 collection of damages. (Sep.Stmt. at ¶ 3) CSI alleges that at
2 the time he made such transfer Armstrong intended in the future to
3 engage in conduct breaching the contract, that he would become
4 subject to damages in consequence of said breaches, "and for which
5 he would have rendered himself judgment-proof." (Sep.Stmt. at ¶
6 4) The complaint alleges that Armstrong did not receive
7 reasonably equivalent value in exchange for the transfer of his
8 interest in the real property. (Sep.Stmt. at ¶ 5)

9 The second cause of action contends that Armstrong
10 transferred \$41,500.00 in cash and \$1,000,000 in stock in The
11 Gerald Armstrong Corporation with the intend to defraud CSI and
12 without receiving reasonably equivalent value in exchange for his
13 transfer of said assets. (Sep.Stmt. at ¶ 6) When Armstrong
14 divested himself of his assets and material possessions, he was
15 not insolvent because his debts did not exceed his assets.
16 (Sep.Stmt. at ¶ 7)

17 C. The Transfer Was Made Pursuant To Armstrong's
18 Sincerely Held Religious Belief That God Required
Him To Give Away His Personal Property

19 Gerald Armstrong is a religious figure who in 1986 founded
20 the Church. (Sep.Stmt. at ¶¶ 8-9) Armstrong's church is
21 predicated on three fundamental tenets which are a "belief," a
22 "corollary" and the "obvious." (Sep.Stmt. at ¶ 8-9) The belief
23 of Armstrong's church is that when members of the church are
24 together God is present; the corollary is that whatever is said or
25 done when members of the church are together is sacred; the
26 obvious is that it has always been so, is now and forever will be.
27 (Sep.Stmt. at ¶ 11) In March, 1992 Armstrong's church had 30
28 members. (Sep.Stmt. at ¶ 12)

1 In August, 1990, Gerald Armstrong, as a consequence of his
2 prayer to God for guidance in his distress at the time of the
3 military buildup in the Middle East following Iraq's conquering of
4 Kuwait, believed he was told by Him to give away his worldly
5 wealth. (Sep.Stmt. at ¶ 13) As a result of God's Answer, in
6 August, 1990 Armstrong transferred his interest in the house
7 ("Fawn house") he lived in to the co-owner Michael Walton
8 ("Walton"), released to Walton his control of funds allocated for
9 the Fawn house, transferred to his friends Bambi Sparks, Michael
10 Douglas, Nancy Rodes, and Walton his stock in The Gerald Armstrong
11 Corporation ("TGAC"), and forgave all debts owed to him.
12 (Sep.Stmt. at ¶¶ 14-16)

13 Armstrong believes that his giving away of his worldly wealth
14 conforms with the directions of Christ found in the Christian
15 Bible. (Sep.Stmt. at ¶ 17) Christ promises in the Bible
16 "treasure in heaven" and "everlasting life" for the relinquishment
17 of worldly wealth, the forsaking of houses. (Sep.Stmt. at ¶ 18)
18 Armstrong's relinquishment of worldly wealth has led to his
19 gaining of Christ's promises. (Sep.Stmt. at ¶ 19) The value of
20 treasure in heaven and everlasting life is greater than the value
21 of his interest in the Fawn house, the Fawn house monies, TGAC
22 stock, and all debts owed to him. (Sep.Stmt. at ¶ 20)

23 It was never Armstrong's intention to transfer his assets for
24 the purpose of rendering himself "judgment proof" so as to avoid
25 his legal responsibilities. (Sep.Stmt. at ¶ 21) Armstrong had no
26 agreement, secret or otherwise, with any of the beneficiaries of
27 his gifts of his assets or his forgiving of debts owed to him in
28 August, 1990 whereby any of said beneficiaries are holding such

1 assets or amounts owed in trust for him, or otherwise have an
2 intent to return such assets or amounts owed to him. (Sep.Stmt. at
3 ¶ 22) In August, 1990, Armstrong had no intent to violate the
4 settlement contract and no intent to deprive Scientology of its
5 ability to collect damages owed to it. (Sep.Stmt. at ¶ 23) In
6 August, 1990, Armstrong had not engaged in any conduct that could
7 possibly be construed as having violated the settlement contract,
8 with the exception of requesting permission from the Court of
9 Appeal to participate in the litigation of his own appeal, which
10 paragraph 4 of the settlement contract prohibited him from doing.
11 In support of his request for permission to so participate in his
12 appeal he submitted the settlement contract under seal. (Sep.Stmt.
13 at ¶ 24)

14 D. Scientology's Ecclesiastical Policies

15 Plaintiff herein, Church of Scientology International ("CSI")
16 claims to be a non-profit religious corporation. (Id. at ¶ 26)
17 CSI claims that its management policies and directives are
18 "scripture." (Id. at ¶ 27) CSI's "scriptures" direct that its
19 "scriptures" must be followed. (Id. at ¶ 28)

20 According to CSI's "scriptures," "Suppressive Persons" ("SP")
21 are defined as follows:

22 A SUPPRESSIVE PERSON or GROUP is one that actively seeks
23 to suppress or damage Scientology or a Scientologist by
suppressive acts.

24 SUPPRESSIVE ACTS are calculated to impede or destroy
25 Scientology or a Scientologist and which are listed at
length in this policy letter.

26 (Id. at ¶ 29) Someone who is consider to be a suppressive person
27 is subject to Scientology's fair game policy. It states:

28 SP Order. Fair game. May be deprived of property or

1 injured by any means by any Scientologist without any
2 discipline of the Scientologist. May be tricked, sued
or lied to or destroyed.

3 (Id. at ¶¶ 33-34)

4 Fair Game has been judicially recognized as a practice of
5 Scientology since 1976, and as Scientology's practice toward
6 Armstrong from 1984 through 1991. (Id. at ¶¶ 37-38)

7 CSI declared Armstrong a Suppressive Person in 1982 and has
8 considered him to be such ever since. (Id. at ¶ 30) According to
9 CSI, Armstrong has engaged "Suppressive Acts," lies, and criminal
10 acts.

11 According to CSI's "scriptures," "Squirrels" are people with
12 the "ecclesiastical" status of engaging in actions "that were
13 destructive and aimed at the enslavement rather than the freedom
14 of man." (Id. at ¶ 31) - CSI has considered Armstrong a "Squirrel"
15 since 1984. (Id. at ¶ 32)

16 According to CSI's "scriptures," "Black Propaganda" is
17 defined as follows:

18 The world is full of madmen. The basic characteristic
19 of extreme madness is perpetual attack, attacks on
20 anything, attacks on persons or things which contain no
21 menace. Extreme, not petty, crime is at the root of
22 such an impulse. The attacker has an evil purpose in
23 life. He is a thing of death, not life. And his
24 harvest is a death harvest. Such a person feels he
25 cannot be safe unless everything else is dead. His evil
26 purpose takes many forms and expressions. The end
27 product is the same-death. ... Where an attacker lacks
28 the physical means of destroying others and where his
own purpose would fail if disclosed, the attacks become
covert. He uses word of mouth, press media, any
communication channel to spit his venom. He hides
himself as the source, he makes the verbal attack seem
logical or real or proven. He counts on the utterances
being picked up or distorted and passed on by the more
base people in the society. This is Black Propaganda.
It is intended to reduce a real or imagined enemy, hurt
his income and deny him friends and support. ... Black
Propaganda is essentially a fabric of lies.

1 (Id. at ¶ 39)

2 According to CSI, Armstrong has engaged in "Black Propaganda"
3 against Scientology including when he testified in deposition
4 pursuant to subpoena. (Id. at ¶ 40-41) CSI regards Armstrong's
5 testimony in litigation as "made up," a "shtick," his
6 "declarations are phony and contain lies," and he lied in
7 testimony about Scientology and its founder. (Id. at ¶ 42)

8 Scientology's scriptures state that Black Propaganda is to be
9 dealt with through "dead agent and legal restraints." (Exhibit
10 HH)

11
12
13 LEGAL DISCUSSION

14 II. SUMMARY ADJUDICATION SHOULD BE GRANTED AS TO THE FIRST,
15 SECOND AND THIRD CAUSES OF ACTION FOR FRAUDULENT CONVEYANCE
AND CONSPIRACY

16 A. Plaintiff Cannot Show That Armstrong Was
17 Insolvent Or Unable To Pay His Debts At
The Time He Made The Transfers

18 Plaintiff seeks relief under the Uniform Fraudulent Transfer
19 Act. Pursuant to the Act a "claim" means a right to payment,
20 whether or not the right is reduced to judgment, liquidated,
21 unliquidated, fixed, contingent, matured, unmatured, disputed,
22 legal, equitable, secured or unsecured. (Civil Code § 3439.01
23 (b)) A "creditor" is one who has a claim (Civil Code § 3439.01
24 (c)) and a "debtor" is a person who is liable on such claim.
25 (Civil Code § 3439.01 (e)) A transfer means every mode of parting
26 with an asset or interest therein. (Civil Code § 3439.01 (i))

27 Civil Code section 3439.04 provides that either actual or
28

1 constructive fraud may provide a basis for relief. ^{1/}

2 CSI's claim is predicated on the settlement contract which it
3 asserts Armstrong to have commenced violating in February 1990
4 (Sep.Stmt. at ¶ 2), ^{2/} approximately six months before the
5 transfers that are the subjects of the complaint. (Id. at ¶ 3)
6 Therefore, CSI's claim arose prior to the transfers.

7 Civil Code section 3439.05 states:

8 A transfer ... by a debtor is fraudulent as to a
9 creditor whose claim arose before the transfer was made
10 ... if the debtor made the transfer ... without
11 receiving reasonably equivalent value in exchange for
12 the transfer ... and the debtor was insolvent at that
13 time or the debtor became insolvent as a result of the
14 transfer

15 A debtor is insolvent if the sum of his debts is greater than all
16 of his assets. (Civil Code § 3439.02 (a))

17 At the time that Armstrong made the transfers at issue
18 herein, he was not insolvent. He was not indebted to anybody.
19 (Sep.Stmt. at ¶ 7)

20 The burden of proof as to insolvency under the act is on the
21 party claiming that it is a fact and is never presumed.

22 As a general rule solvency and not insolvency is
23 presumed. To overcome this presumption a fair

24 ¹ The statute states: "A transfer made ... by a debtor is
25 fraudulent as to a creditor, whether the creditor's claim arose
26 before or after the transfer was made ... if the debtor made the
27 transfer ... as follows: (a) With actual intent to hinder, delay,
28 or defraud any creditor of the debtor. (b) Without receiving
reasonably equivalent value in exchange for the transfer ..., and
the debtor: (1) Was engaged or about to engage in a business or a
transaction for which the remaining assets of the debtor were
unreasonably small in relation to the business or transaction; or
(2) Intended to incur, or believed or reasonably should have
believed that he or she would incur, debts beyond his or her
ability to pay as they became due."

² It should be noted, however, that CSI did not file its
complaint until July 1993.

1 interpretation of the statute requires some basis in
2 evidence for determining that the amount of the debtor's
3 obligations exceeded the then present fair salable value
4 of his nonexempt assets. Neither a failure to meet
5 credit obligations nor an inability to pay bills because
6 of lack of ready cash is sufficient, standing alone, to
7 warrant a conclusion of insolvency, nor is either
8 circumstance necessarily inconsistent with solvency.

9 (TWM Homes, Inc. v. Atherwood Realty (1963) 214 Cal.App.2d 846,
10 847 quoted in Hansford v. Lassar (1976) 53 Cal.App.3d 364, 375)

11 Since in August 1990, Armstrong was neither insolvent nor
12 could have reasonably believed that he would incur debts beyond
13 his ability to pay, he has met his burden of showing that both the
14 first and second causes of action have no merit because he has
15 shown that the above identified critical elements of the cause of
16 action cannot be established. Therefore, the burden shifts to CSI
17 to show that there is a triable issue. (Code of Civil Procedure §
18 437c (o) (2))

19 **B. As A Matter Of Law CSI Cannot Prove**
20 **Armstrong Intended To Defraud It Inasmuch**
21 **As To Do So Would Violate The First Amendment**
22 **Because The Fraudulent Conveyance Claims Explicitly**
23 **Require A Jury To Evaluate The Truth Or Falsity Of**
24 **Religious Beliefs**

25 In the absence of its ability to make a sufficient showing to
26 support a theory of constructive fraud, CSI must show actual fraud
27 in order to obtain relief. CSI cannot make a showing as to actual
28 fraud, however, because it is constitutionally precluded from so
doing.

29 Plaintiff cloaks its allegations against Armstrong in the
30 lurid abstractions of a virulent ad hominem attack. It claims
31 that Armstrong "displayed through the years an intense and abiding
32 hatred for the Church, and an eagerness to annoy and harass his
33 former co-religionists by spreading enmity and hatred among

1 members and former members." (Request for Judicial Notice, Exh. A
2 at p. 2:4-19) CSI makes the consciously false allegation "that
3 Armstrong had undertaken a series of covert activities, apart from
4 litigation, which were intended by Armstrong to discredit Church
5 leaders, spark government raids into the Churches, create phony
6 'evidence' of wrongdoing against the Churches, and, ultimately,
7 destroy the Churches and their leadership." (Id. at pp. 5:23-18)
8 All such characterizations are part of Scientology's
9 ecclesiastical policy to "Dead Agent" Armstrong, to discredit him.
10 (Exh. HH)

11 In truth, the reason that Armstrong gave his property away
12 was because in August, 1990, as a consequence of his prayer to God
13 for guidance in his distress at the time of the military buildup
14 in the Middle East following Iraq's conquering of Kuwait,
15 Armstrong was told by Him to give away his worldly wealth and
16 because of the spiritual benefits he receives from following the
17 dictates of his conscience as informed by his relationship with
18 God. (Sep.Stmt. at ¶¶ 12-19)

19 The First Amendment guarantees of freedom of religion
20 establish liberty of conscience as an abiding national principle.
21 The realm of individual belief is wholly beyond the power of the
22 state; "[h]eresy trials are foreign to our Constitution." (United
23 States v. Ballard (1944) 322 U.S. 78, 86) But constitutional
24 protection is not limited to matters of belief. Guaranteeing the
25 "the free exercise" of religions, the words of the Constitution's
26 text also shield conduct undertaken for reasons of faith. "[T]he
27 right to the free exercise of religion unquestionably encompasses
28 the right to preach, proselyte, and perform other similar

1 religious functions." (McDaniel v. Paty (1978) 435 U.S. 618, 626
2 (Burger, C.J.) (plurality opinion), See also Wisconsin v. Yoder
3 (1972) 406 U.S. 205, 220 ["there are areas of conduct protected by
4 the Free Exercise Clause of the First Amendment and thus beyond
5 the power of the State to control, even under regulations of
6 general applicability"]).

7 The Constitution absolutely prohibits any judicial inquiry
8 that would have the effect of evaluating religious belief. In
9 United States v. Ballard, supra, the government brought a mail-
10 fraud prosecution charging a scheme to defraud by organizing and
11 promoting a religion known as the "I Am" movement. Since falsity
12 is an element of fraud, the Circuit Court held that the truth or
13 falsity of the religious beliefs should have been submitted to the
14 jury. The Supreme Court reversed holding that:

15 Heresy trials are foreign to our Constitution. Men may
16 believe what they cannot prove. They may not be put to
17 the proof of their religious doctrines or beliefs.
18 Religious experiences which are as real as life to some
19 may be incomprehensible to others. Yet the fact that
20 they may be beyond the ken of mortals does not mean they
21 can be made suspect before the law. ... If one could be
22 sent to jail because a jury in a hostile environment
23 found those teachings false, little indeed would be left
24 of religious freedom.

25 (Id., 322 U.S. at 86-87)

26 The court pointed out that the framers of the Constitution
27 were aware of the "varied and extreme view of religious sects, of
28 the violence of disagreement among them, and of the lack of any
29 one religious creed upon which all men would agree." (Ibid.)
30 They accordingly fashioned a charter of government which granted
31 each citizen

32 the right to worship as he pleased and to answer to no
33 man for the verity of his religious views. The

1 religious views espoused by respondents might seem
2 incredible, if not preposterous, to most people. But if
3 those doctrines are subject to a trial before a jury
4 charged with finding their truth or falsity, then the
5 same can be done with the religious views of any sect.
When the triers of fact undertake that task, they enter
a forbidden domain. The First Amendment does not select
any one group or any one type of religion for preferred
treatment. It puts them all in the same position.

6 (322 U.S. at 87) In Ballard, the court explicitly held that "all
7 questions concerning the truth or falsity of the religious beliefs
8 of [the defendants]" must be "withheld from the jury." (322 U.S.
9 at 88) "It is not only the conclusions that may be reached ...
10 which may impinge on rights guaranteed by the Religion Clauses,
11 but also the very process of inquiry leading to findings and
12 conclusions." (NLRB v. Catholic Bishop of Chicago (1979) 440 U.S.
13 490, 502)

14 In Founding Church of Scientology v. United States (D.C.
15 Cir.) 409 F.2d 1146 the court held that

16 [U]nder Ballard it seems unlikely that a disgruntled
17 former adherent could sue a church for fraud and deceit
18 because it had collected money from him on the basis of
19 allegedly "false" doctrines concerning salvation, heaven
and hell -- or for that matter on the basis of
doctrines, such as those of the Christian Scientists,
concerning the cause and cure of disease.

20 (Id. at 1156, n. 32) The court added, "regulation of religious
21 action which involves testing in court the truth or falsity of
22 religious belief is barred by the First Amendment." (Id. at 1156)

23
24 The court in Founding Church explicitly recognized that what
25 may appear to the layman as a factual claim, subject to objective
26 verification, is an article of faith to the believer, beyond the
27 powers of examination by man or court.

28 As a reciprocal matter, no matter how disgruntled Scientology

1 is, it cannot sue Armstrong, a former adherent, who has founded
2 his own religion. Scientology may not like it that Armstrong's
3 relationship with and religious belief in God was and is such as
4 to cause him to divest himself of his material possessions as part
5 of his effort to attain salvation, but it is prohibited from
6 litigating that such belief is false and fraudulent.

7 Paragraphs 29, 30, 36 and 37 of the complaint allege that at
8 the time Armstrong divested himself of his worldly and material
9 possessions, he did so in order to defraud the Scientology Church
10 in the collection of damages. In order to find in favor of
11 Scientology in this regard, it is necessary for the court to make
12 the determination that it is false that God directed Armstrong to
13 divest himself of property which is constitutionally prohibited.

14 Armstrong has been a religious figure for almost 10 years.
15 (Sep.Stmt. at ¶ 7) He has founded a Church which has discrete
16 doctrines (Id. at ¶¶ 8-10) and 30 adherents. (Id. at ¶ 11)

17 Armstrong divested himself of most of his assets and forgave
18 those who were indebted to him in August 1990 in consequence of a
19 communication from God that he should do so in response to
20 Armstrong's petition to God for instruction as to what to do
21 regarding the military buildup in the Middle East following Iraq's
22 conquering of Kuwait. (Id. at ¶¶ 12-15) Armstrong divestiture of
23 material possession comports with classic Christian religious
24 beliefs upon which Armstrong has placed paramount value. (Id. at
25 ¶ 16-20)

26 Scientology's claims against Armstrong is based on two
27 possible grounds, constructive or actual fraud. Since Scientology
28 is unable to make its case based on constructive fraud, it is left

1 with actual fraud. It cannot proceed on the basis of actual fraud
2 because to do so would violate the principles set forth in Ballard
3 and Founding Church. (C.C.P. § 437c (o)(2))

4 Based upon the constitutional prohibition against inquiring
5 into the truth or validity of religious beliefs or making any
6 determination regarding such truth or validity, Scientology's
7 first, second and third causes of action must be dismissed.

8 "The government may not evaluate the benefits of religious
9 practice including the truth or falsity of statements about the
10 benefits of religious practices under any circumstances." (Church
11 of Scientology Flag Services Org. Inc. v. City of Clearwater (M.D.
12 Fla. 1991) 756 F.Supp. 1498, 1513 (emphasis added))

13 **III. SUMMARY ADJUDICATION MUST BE GRANTED AS TO ARMSTRONG'S FIRST**
14 **AFFIRMATIVE DEFENSE BASED ON THE FIRST AMENDMENT IN THAT**
15 **SCIENTOLOGY'S LAWSUIT VIOLATES THE PROHIBITION AGAINST**
16 **ESTABLISHMENT OF A RELIGION BECAUSE SAID LAWSUIT SEEKS TO**
17 **IMPOSE SCIENTOLOGY'S ECCLESIATICAL POLICIES OF RETRIBUTION**
18 **UPON ARMSTRONG**

19 The Establishment Clause, providing that the state "shall
20 make no law respecting an establishment of religion . . .," (First
21 Amendment to the U.S. Constitution) was a product of religion
22 intolerance experienced by our forebears both in Europe and in the
23 New World. Those who came into conflict with the dominant,
24 government-endorsed religions suffered fines, imprisonment and
25 even death. (Everson v. Board of Education (1947) 330 U.S. 1, 9)
26 In reaction to this religious intolerance, the framers of the
27 Constitution concluded that individual religious liberty could be
28 achieved best under a government which was stripped of all power
to tax, support or otherwise assist any or all religions, or to
interfere with the beliefs of any religion or group. (Id. 330

1 U.S. at 11) The Establishment Clause is far more than a mere
2 prohibition upon the formal establishment of a state church:

3 The "establishment of religion" clause of the First
4 Amendment means at least this: Neither a state nor a
5 federal government can set up a church. Neither can
6 pass laws which aid one religion, aid all religions, or
7 prefer one religion over another. Neither can force nor
8 influence a person to go to or remain away from church
9 against his will or force him to profess a belief or
10 disbelief in any religion. No person can be punished for
11 entertaining or professing religious beliefs or
12 disbeliefs, for church attendance or non-attendance.

13 (330 U.S. at 15-16) "The First Amendment does not select any one
14 group or any one type of religion for preferred treatment. It
15 puts them all in that position." (U.S. v. Ballard, 322 U.S. at 86-
16 87) Similarly, "the fullest realization of true religious liberty
17 requires that government ... effect no favoritism among sects or
18 between religion and non-religion, and that it work deterrence of
19 no religious belief." (Abington School District v. Schemp (1963)
20 374 U.S. 203, 305 (Goldberg, J. concurring))

21 Thus, the First Amendment's "anti-establishment clause"
22 (Wollersheim v. Church of Scientology (1989) 212 Cal.App.3d 872,
23 884) guarantees citizens that the government will not use its
24 resources to impose religion on us. (Ibid.)

25 Scientology's "ecclesiastical" dogma is based on written
26 materials that were created by its founder, L. Ron Hubbard.
27 (Sep.Stmt. ¶¶ 27-28) Included in such dogma are certain policies
28 of retribution. It is those policies that Scientology is seeking
to enforce in this court in an effort to eradicate Armstrong's own
religious beliefs and practices. For this Court to allow its
processes to be used as part of a religiously motivated campaign
of destruction violates the anti-establishment clause because the

1 state is allowing one religious entity to use its processes to in
2 an attempt destroy another religious entity by implementing the
3 practice of Fair Game (Sep.Stmt. ¶¶ 29-38) and legal restraints in
4 conjunction with "dead agenting" Armstrong for what Scientology
5 claims is his "Black Propaganda."

6 "The DEFENSE of anything is UNTENABLE. The only
7 way to defend anything is to ATTACK, and if you ever
8 forget that, then you will lose every battle you are
9 ever engaged in, whether it is in terms of personal
10 conversation, public debate, or a court of law. NEVER
11 BE INTERESTED IN CHARGES. DO, yourself, much MORE
12 CHARGING and you will WIN. And the public, seeing that
13 you won, will then have a communication line to the
14 effect that Scientologists WIN. Don't ever let them
15 have any other thought than that Scientology takes all
16 its objectives.

17 ...

18 "The law can be used very easily to harass, and
19 enough harassment on somebody who is simply on the thin
20 edge anyway, well knowing that he is not authorized,
21 will generally be sufficient to cause his professional
22 decease. If possible, of course, ruin him utterly."

23 (Sep.Stmt. at ¶ 44)

24 CSI has between 25 and 40 personnel in its "Legal Bureau."
25 (Id. at ¶ 45) CSI considers the personnel in its Legal Bureau are
26 performing "ecclesiastical" duties. (Id. at ¶ 46) The
27 "ecclesiastical" duties in CSI's Legal Bureau include dealing with
28 all the litigation involving Armstrong. (Id. at ¶ 47) Testifying
falsely or giving data against Scientology falsely or in
generalities or without personal knowledge of the matters to which
one testifies is considered a "suppressive act" in Scientology.
(Id. at ¶ 48) CSI seeks in its litigation against Armstrong to
prevent him from testifying against Scientology, and from making
public statements against Scientology or Scientologists, and seeks
to have the Courts punish him for so doing. (Id. at ¶ 48)

Armstrong's First Affirmative Defense in his Verified Answer

1 states: "Plaintiff is barred from bringing this action against
2 Armstrong on the grounds that the complaint and the "agreement" on
3 which it is based seek to attack, limit and deny Armstrong's right
4 to freedom of religion guaranteed by the state and federal
5 constitutions." (Id. at ¶ 25)

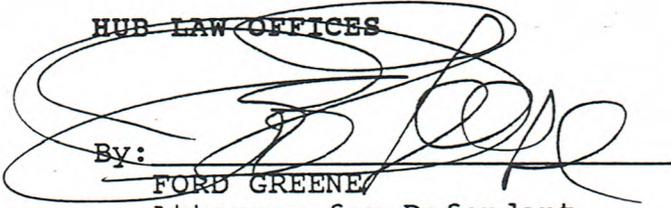
6 Scientology is unable to overcome this defense because its
7 use of the judicial system as a tool of implementing Fair Game,
8 Dead Agent and its other ecclesiastical policies of retribution
9 violate the anti-establishment clause.

10 **IV. CONCLUSION**

11 Armstrong respectfully submits that his motion for summary
12 judgment, or, in the alternative, for summary adjudication, should
13 be granted.

14 DATED: August 12, 1994

HUB LAW OFFICES

By: 

FORD GREENE

Attorney for Defendant

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